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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/191,256	11/12/1998	DOUGLAS ROBERT CASE	SA9-98-160	8425
45216	7590	03/10/2008		
Kunzler & McKenzie 8 EAST BROADWAY SUITE 600 SALT LAKE CITY, UT 84111			EXAMINER DONAGHUE, LARRY D	
			ART UNIT	PAPER NUMBER
			2154	
			MAIL DATE	DELIVERY MODE
			03/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.	Applicant(s)	
	09/191,256	CASE ET AL.	
	Examiner	Art Unit	
	Larry D. Donaghue	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07/26/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 9, 10 and 13-22 is/are rejected.
- 7) ☒ Claim(s) 3-8 and 11-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. Claims 1-22 are presented for examination.

2. Applicant is advised that the Notice of Allowance mailed is vacated. If the issue fee has already been paid, applicant may request a refund or request that the fee be credited to a deposit account. However, applicant may wait until the application is either found allowable or held abandoned. If allowed, upon receipt of a new Notice of Allowance, applicant may request that the previously submitted issue fee be applied. If abandoned, applicant may request refund or credit to a specified Deposit Account.

3. The indicated allowability of claims is withdrawn in view of the newly discovered reference(s) to Case et al. (US 6,847,987) and ADSM Concepts. Rejections based on the newly cited reference(s) follow.

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

the claimed invention is directed to non-statutory subject matter.

Claims 16-22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claims are directed to software per se.

5. Invoke-To activate a program, routine, function or process.

Agent-A software routine that waits in the background and performs an action when a specified event occurs. For example, agents could transmit a summary file on the first day of the month or monitor incoming data and alert the user when a certain transaction has arrived. Agents are also called "intelligent agents," "personal agents" and "bots.

Examiner has supplied standard definition for two terms in the claims, if applicant feels these are improper, applicant to show where in the specification, the terms are defined and limited otherwise.

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

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only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1, 16, 17, 19 and 20 rejected under 35 U.S.C. 102(e) as being anticipated by Case et al. (6,847,987).

The applied reference has a common inventor and assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

Case et al. taught the invention as claimed including a system for remotely accessing a client in a client-server system comprising a browser for requesting remote access (col. 5, line 59 – col. 6, line 18); a client machine further comprised of a listening program configured to be responsive to requests for remote access from the browser, establish direct communications therewith, and invoke a client agent for communicating with the browser and a server machine (col. 8, lines 1-18, fig. 5B, fig 6 200).

As to claim 16, Case et al. taught computer-readable medium having a program for servicing a request using a client, the client being capable of communicating with a browser (col. 5, line 59 – col. 6, line 18), the client providing a plurality of functions, the program containing instructions for: providing a client agent containing a client platform and an application programming interface; and providing a listening program for listening for a communication from the browser, establishing direct communications therewith, and invoking the client agent; wherein the client agent communicates with both the browser and a server (col. 8, lines 1-18, fig. 5B, fig 6 200).

As to claim 17, Case et al. taught the client and the server are on the same machine (fig 5B, 175).

As to claim 20, Case et al. taught the communications by the client agent with the server include instructions for restoring at least one client file to the client from the server (col. 9, lines 60-62).

8. Claims 1, 2, 9-10, 13-16, 18-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by ADSM Concepts.

ADSM Concepts taught a system for remotely accessing a client in a client-server system comprising a browser for requesting remote access; a client machine further comprised of a listening program configured to be responsive to requests for remote access from the browser, establish direct communications therewith, and invoke a client agent for communicating with the browser and a server machine (page 22 and 111).

As to claim 2 ADSM Concepts taught wherein the browser requests access to a client machine by sending a universal resource locator containing a machine name and a port number of a network (page 112).

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As to claims 9-10 ADSM Concepts taught method for remotely accessing a client machine from a browser over a network comprising the steps of providing a universal resource locator containing a machine name and a port number at a command line at the browser; listening at the port number for access requests at the client machine; responsive to a request for access from the browser, establishing direct communications therewith; invoking a client agent within an application programming interface; and communicating between the client agent and the browser over the network further comprising the step of communicating between the client agent and a server over the network (pages 22, 111-112).

As to claims 13-15, ADSM Concepts taught the communications are comprised of performing client functions from the browser further comprised of retrieving files from the server to the client machine and backing up files on client machine to the server.

As to claim 16, , ADSM Concepts taught computer-readable medium having a program for servicing a request using a client, the client being capable of communicating with a browser, the client providing a plurality of functions, the program containing instructions for: providing a client agent containing a client platform and an application programming interface; and providing a listening program for listening for a communication from the browser, establishing direct communications therewith, and invoking the client agent; wherein the client agent communicates with both the browser and a server (page 22, 111-112).

As to claim 18, , ADSM Concepts taught the browser and the server are on the same machine (page 111).

As to claims 19-20, ADSM Concepts taught the communications by the client agent with the server include instructions for backing up at least one client file and instructions for restoring at least one client file to the client from the server.

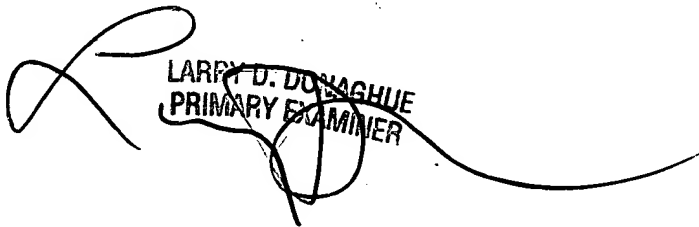
9. Claims 3-8, and 11-12 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Larry D. Donaghue whose telephone number is 571-272-3962. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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